

REMARKS

By this amendment, claims 1-43 are pending. Claim 21 is currently amended, and claims 41-43 are newly presented. No new matter is introduced.

The Office Action mailed June 29, 2010 rejected claims 21-39 under 35 U.S.C. §112, second paragraph as being indefinite, claims 1-4, 7-9, 12, 13, 17, 20-24, 27, 28, 31, 32, 36, 39, and 40 as obvious under 35 U.S.C. §103(a) based on *Albert et al.* (US 6,606,316) in view of *Gai et al.* (US 6,167,445), claims 5 and 25 as obvious under 35 U.S.C. §103(a) based on *Albert et al.* (US 6,606,316) and *Gai et al.* (US 6,167,445) in view of *Haas* (US 5,115,432), claims 16, 18, 35, and 37 as obvious under 35 U.S.C. §103(a) based on *Albert et al.* (US 6,606,316) and *Gai et al.* (US 6,167,445) in view of *Feldman et al.* (US 6,055,561), claims 19 and 38 as obvious under 35 U.S.C. §103(a) based on *Albert et al.* (US 6,606,316) and *Gai et al.* (US 6,167,445) in view of *Grant et al.* (US 5,027,269), claims 10, 11, 29, and 30 as obvious under 35 U.S.C. §103(a) based on *Albert et al.* (US 6,606,316) and *Gai et al.* (US 6,167,445) in view of *Gai et al.* (US 6,651,096), and claims 6, 14, 15, 26, 33, and 34 as obvious under 35 U.S.C. §103(a) based on *Albert et al.* (US 6,606,316) and *Gai et al.* (US 6,167,445) in view of *Gibson et al.* (US 6,680,943).

Telephonic interview of September 15, 2010.

Applicants express appreciation for Examiner Bates' courtesy in granting and conducting a telephonic interview on September 15, 2010. During the interview the claims were explained in light of Applicants' disclosure, the outstanding issues were discussed, and arguments substantially as hereinafter developed were presented. Applicants' attorney pointed out features relating to the use of an access router to receive the second subset of the received messages not

communicated to the external processor, and that it was not obvious to merely place a conventional access router, as in *Gai et al.* (US 6,167,445) in the system of *Albert et al.* without any suggestion for doing so. No formal agreement was reached, pending the Examiner's detailed reconsideration of the application upon formal submission of a response to the outstanding Office Action.

The rejection of claims 21-39 under 35 U.S.C. §112, second paragraph, is traversed.

The Office Action asserted that it is unclear from the language of independent claim 21 which functions are performed by which network element. Applicants respectfully disagree.

The second paragraph 35 U.S.C. §112 requires only reasonable precision in delineating the bounds of the claimed invention. *United States of America et al. v. Telectronics, Inc. et al.*, 857 F.2d 778, 8 USPQ2d 1217 (Fed. Cir. 1988). The language of claim 21 is more than reasonable in its precision regarding what functions are performed by each of the recited elements of the network system.

Nevertheless to advance prosecution, in accordance with the suggestion made by the Examiner during the telephonic interview of September 15, 2010, claim 21 has been amended to recite the "access router" in its own paragraph, and the "wherein" clause as an ending paragraph, tying together the interrelationship between the programmable access device, the external processor, and the access router.

Accordingly, claim 21 is not indefinite, within the meaning of 35 U.S.C. §112, second paragraph; therefore, withdrawal of this rejection is respectfully solicited.

The rejection of claims 1-4, 7-9, 12, 13, 17, 20-24, 27, 28, 31, 32, 36, 39, and 40 under 35 U.S.C. §103(a) is traversed.

Independent claim 1 recites, *inter alia*, “processing, by the programmable access device, the messages from the first network to distinguish between various message types and to **establish a first subset of the received messages and a second subset of the received messages** and **routing the second subset** of the received messages not communicated to the external processor, **via the access router**, from the network access system **via a second network interface different from the first network interface to a second network external** to the network access system, wherein the second network is different from the first network.” Independent claims 21 and 40 recite similar features with varying scope.

Albert et al. is devoid of any teaching of the claimed first and second subsets of received messages, wherein the second subset is routed, **via the access router**, via a second network interface different from the first network interface, to a second network external to the network access system. In fact, *Albert et al.* is completely devoid of an “access router.” The Office Action acknowledged that *Albert et al.* lacks a teaching of the second subset “transmitted from the programmable access device through **another** access router to the second external network.” Applicants note that the interpretation in the Office Action is flawed because the claims recite only one “access router.” There is no “another” access router. However, *Albert et al.* does not teach the transmission of the “second subset” from the programmable access device **through the access router** to the second external network, at least because *Albert et al.* does not teach an “access router” at all.

The Office Action relied on *Gai et al.* (US 6,167,445) to cure the deficiency of *Albert et al.*, specifically indicating col. 12, lines 19-67, and Fig. 3, intermediate device 318, and “access

router” 312 of *Gai et al.* (US 6,167,445) as teaching the access router through which the second subset is transmitted to the second external network. Applicants respectfully disagree.

Initially, it is noted that element 312 of *Gai et al.* (US 6,167,445) is a switch, and not an access router. While an access router forwards packets, a switch merely completes an electrical connection between two elements. Therefore, element 312 of *Gai et al.* (US 6,167,445) cannot correspond to the claimed “access router.”

In any event, element 318 of *Gai et al.* (US 6,167,445) is a router and permits the forwarding of packets between and among network 304, policy server 322, server 350, and end stations 340-346. However, router 318 does not route “the second subset of the received messages not communicated to the external processor...from the network access system via a second network interface different from the first network interface to a second network external to the network access system, wherein the second network is different from the first network.” Router 318 does route signals between network domains 302 and 304, but it does not route a “second subset of the received messages not communicated to the external processor,” wherein messages received by a programmable access device are processed by the programmable access device to establish a first and second subset of messages by distinguishing between various message types.

Since there is no programmable access device in *Gai et al.* (US 6,167,445) for establishing the claimed first and second subsets, and, therefore, the router 318 of *Gai et al.* (US 6,167,445) does not receive the claimed “second subset” to forward to the second network, and *Albert et al.* lacks any suggestion of an access router for forwarding the second subset to the second network, there is no suggestion in the combination that would have led the person of ordinary skill in the art to extract the router 318 of *Gai et al.* (US 6,167,445) and place it in the

system of *Albert et al.*, ostensibly somewhere between the forwarding agent 231 and the group of servers 220. Only Applicants' disclosure suggests that modification and a conclusion of obviousness based on hindsight, using Applicants' claims as a guide, is not permissible within the meaning of 35 U.S.C. §103(a).

The rationale for the proposed combination of references is "to expand Albert's system instead of just operating as a forwarding agent for host servers it can operate to provide services and forwarding functions for an entire network including other routers to allow a more diverse implementation of the system" (Office Action-page 5). This rationale for concluding obviousness a mere generalization, falling far short of the "articulated reasoning with some rational underpinnings" required by the U.S. Supreme Court, *KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385 (2007). Moreover, the use of a router 318 in *Gai et al.* (US 6,167,445) does not suggest an "expansion" of the *Albert et al.* system "to provide services and forwarding functions for an entire network." *Albert et al.* already provides forwarding services by forwarding flows of packets depending on instructions issued by the service managers. There would have been no need of an "access router," as claimed, in *Albert et al.* and, in fact, such an access router would disrupt the operation of the *Albert et al.* system since the forwarding agents 231, 232, employed as corresponding to the claimed programmable access device, does the routing in accordance with instructions from service managers 241 and 242.

Further, the Office Action cites col. 12, lines 19-67 of *Gai et al.* (US 6,167,445), but this cited portion relates, in part, to accepting traffic that belongs to a specific group and any "traffic that does not belong to the group **should be dropped**" (lines 30-31, emphasis added). Thus, in *Gai et al.* (US 6,167,445), either packets are accepted for forwarding or they are dropped. This is different than dividing packets or messages into two subsets, with one subset forwarded one

way and the other subset forwarded another way. The claimed invention does not drop any messages, and there would have been no suggestion from dropping packets that do not belong to a certain group, as in *Gai et al.* (US 6,167,445), to, instead, forward messages in two different ways depending on the subset. While Applicants understand that it is *Albert et al.* that is relied on for dividing messages into two subsets and forwarding the messages to different destinations depending on the subset, the point is that since *Gai et al.* (US 6,167,445) describes a system so different from *Albert et al.*, that there would have been no reason for the person of ordinary skill in the art to take the router 318 of *Gai et al.* (US 6,167,445) and force-fit it into the system of *Albert et al.*, which already discloses a way to forward messages without the use of an access router, as claimed.

Accordingly, the combination of *Albert et al.* and *Gai et al.* (US 6,167,445) is improper and the combination, even if made, would not result in the instant claimed subject matter. Therefore, withdrawal of the rejection of claims 1-4, 7-9, 12, 13, 17, 20-24, 27, 28, 31, 32, 36, 39, and 40 as obvious under 35 U.S.C. §103(a) is respectfully solicited.

The rejections of claims 5, 6, 10, 11, 14-16, 18, 19, 25, 26, 29, 30, 33-35, 37, and 38 under 35 U.S.C. §103(a) are traversed.

Since none of the secondary references of *Haas*, *Feldman et al.*, *Grant et al.*, *Gai et al.* (US 6,651,096), or *Gibson et al.* cures the deficiencies of the combination of *Albert et al.* and *Gai et al.* (US 6,167,445), Applicants respectfully request the Examiner to withdraw the rejections of claims 5, 6, 10, 11, 14-16, 18, 19, 25, 26, 29, 30, 33-35, 37, and 38 under 35 U.S.C. §103(a).

Newly presented claims 41-43 add further features to the claimed access router in accordance with the Examiner's suggestion, during the interview of September 15, 2010, to further distinguish the claimed access router over the prior art. Specifically, claim 41 recites "the access router comprises a forwarding table, and Exterior Gateway Protocol (EGP) and Interior Gateway Protocol (IGP) routing tables," claim 42 recites "a third network coupling the programmable access device to the access router," and claim 43 further defines the coupling as "made via one of an Asynchronous Transfer Mode (ATM) and a Multi-Protocol Label Switching (MPLS) switch." Support for these new claims can be found, for example, at pages 11 and 13 of the specification. None of the applied references discloses or suggests these more specific features of the claimed access router and the connection between the access router and the programmable access device. Therefore, claims 41-43 are allowable over the prior art of record. Allowance of claims 41-43 is respectfully solicited.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

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September 22, 2010
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